

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

In re:

METROPOLITAN MORTGAGE & SECURITIES CO

Debtor

Summit Securities, Inc.

Plaintiff

John Hancock Mutual Life Insurance Company

Defendant

Bankruptcy Case No: **04-00757-PCW11**


Adv. Proceeding No: **09-80160-PCW**

**MEMORANDUM DECISION RE:
DEFENDANT JOHN C. BABCOCK'S
MOTION FOR SUMMARY JUDGMENT**

Defendant John Babcock's new Motion for Summary Judgment filed on November 5, 2010 (Docket No. 116) appears to be the same motion that the court has already ruled on. Defendant erroneously believes that because the Bankruptcy Appellate Panel remanded his case back to this court that all of his previous claims continued to be valid.

Because defendant believes that this court has not ended the action as to any of the claims or parties defendant reasserts previous defenses that have already been decided by the court. See Order Granting Plaintiffs' Motion for Summary Judgment Against Defendant John C. Babcock, Docket No. 78 and Amended Order Granting Plaintiffs' Motion for Summary Judgment, Docket No. 142. These claims include a statute of limitations defense and a defense stating that the annuity was non-assignable. These claims have been made previously and the court does not need to review these claims as they have already been decided in previous litigation.

The remand from the Bankruptcy Appellate Panel was only to clarify language in the order. See Bankruptcy Appellate Panel Order, Docket No. 115. It was not permission to restart the litigation process and allow the defendant to reassert his claims. Therefore, the court **DENIES** his Motion for Summary Judgment.


Patricia C. Williams
Bankruptcy Judge

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